

AMENDED IN SENATE JULY 10, 2008

AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1569

Introduced by Assembly Member Mendoza

February 23, 2007

~~An act to amend Section 23104 of the Business and Professions Code, relating to alcoholic beverages. An act to amend, repeal, and add Section 273 of the Code of Civil Procedure, relating to court reporters.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1569, as amended, Mendoza. ~~Alcoholic beverages: unlicensed sales: insurers and common carriers. Court reporters: rough draft transcript.~~

Existing law provides that the report of the official reporter or official reporter pro tempore of any court, as specified, when transcribed and certified as being a correct transcript of the testimony and proceedings in a case, is prima facie evidence of that testimony and proceedings. Existing law specifically provides that the report, when prepared as a rough draft transcript, shall not be certified and cannot be used, cited, or transcribed as the official certified transcript of the proceedings. Existing law also provides that the rough draft transcript may not be cited or used to rebut or contradict the official certified transcript and that the production of a rough draft transcript shall not be required.

This bill would provide, until January 1, 2016, that the instant visual display of the testimony or proceedings, or both, shall not be certified and cannot be used, cited, or transcribed as the official certified transcript of the proceedings. The bill also would prohibit the citation

or use of the instant visual display of the testimony or proceedings, or both, to rebut or contradict the official certified transcript of the proceedings.

~~The Alcoholic Beverage Control Act requires, among other things, a license for the sale of alcoholic beverages. Existing law provides, however, for specified exceptions to allow unlicensed persons to sell alcoholic beverages under certain conditions, including the permission of the Department of Alcoholic Beverage Control. Existing law allows, as an exception, an insurer, or a common carrier acting as an insurer to persons shipping alcoholic beverages, after permission is granted by the department, to take possession of and sell any alcoholic beverages whose containers have been damaged, as provided, to authorized licensees, subject to specified conditions, as provided.~~

~~This bill would limit this exception to distilled spirits or wine.~~

~~The Alcoholic Beverage Control Act provides that a violation of its provisions, unless otherwise specified, is punishable as a misdemeanor. This bill, by changing the definition of an existing crime, imposes a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 273 of the Code of Civil Procedure is
2 amended to read:

3 273. (a) The report of the official reporter, or official reporter
4 pro tempore, of any court, duly appointed and sworn, when
5 transcribed and certified as being a correct transcript of the
6 testimony and proceedings in the case, is prima facie evidence of
7 that testimony and proceedings.

8 (b) The report of the official reporter, or official reporter pro
9 tempore, of any court, duly appointed and sworn, when prepared
10 as a rough draft transcript, shall not be certified and cannot be
11 used, cited, *distributed*, or transcribed as the official certified
12 transcript of the proceedings. A rough draft transcript shall not be

1 cited or used in any way or at any time to rebut or contradict the
2 official certified transcript of the proceedings as provided by the
3 official reporter or official reporter pro tempore. The production
4 of a rough draft transcript shall not be required.

5 *(c) The instant visual display of the testimony or proceedings,*
6 *or both, shall not be certified and cannot be used, cited, distributed,*
7 *or transcribed as the official certified transcript of the proceedings.*
8 *The instant visual display of the testimony or proceedings, or both,*
9 *shall not be cited or used in any way or at any time to rebut or*
10 *contradict the official certified transcript of the proceedings as*
11 *provided by the official reporter or official reporter pro tempore.*

12 *(d) This section shall remain in effect only until January 1, 2016,*
13 *and as of that date is repealed, unless a later enacted statute, that*
14 *is enacted before January 1, 2016, deletes or extends that date.*

15 *SEC. 2. Section 273 is added to the Code of Civil Procedure,*
16 *to read:*

17 *273. (a) The report of the official reporter, or official reporter*
18 *pro tempore, of any court, duly appointed and sworn, when*
19 *transcribed and certified as being a correct transcript of the*
20 *testimony and proceedings in the case, is prima facie evidence of*
21 *that testimony and proceedings.*

22 *(b) The report of the official reporter, or official reporter pro*
23 *tempore, of any court, duly appointed and sworn, when prepared*
24 *as a rough draft transcript, shall not be certified and cannot be*
25 *used, cited, or transcribed as the official certified transcript of the*
26 *proceedings. A rough draft transcript shall not be cited or used*
27 *in any way or at any time to rebut or contradict the official certified*
28 *transcript of the proceedings as provided by the official reporter*
29 *or official reporter pro tempore. The production of a rough draft*
30 *transcript shall not be required.*

31 *(c) This section shall become operative on January 1, 2016.*

32 ~~SECTION 1. Section 23104 of the Business and Professions~~
33 ~~Code is amended to read:~~

34 ~~23104. Any insurer may, or any common carrier acting as an~~
35 ~~insurer for losses to persons shipping distilled spirits or wine may,~~
36 ~~after permission has been granted by the department, take~~
37 ~~possession of and sell any distilled spirits or wine the containers~~
38 ~~of which have been damaged by fire or otherwise to licensees who~~
39 ~~are authorized to sell distilled spirits or wine. Any qualified~~
40 ~~licensee may purchase and accept delivery of the distilled spirits~~

1 or wine from the insurer or common carrier after permission to
2 sell is granted. This permission extends only to distilled spirits or
3 wine owned by a licensee and insured against loss or damage by
4 the insurer or common carrier applying for the permission. The
5 distilled spirits or wine shall be labeled or otherwise identified,
6 prior to and at the time of sale, as distress merchandise, salvaged
7 from fire, wreck, or similar catastrophe. The label or other
8 identification shall be affixed over the regular label of the
9 merchandise, and shall state that it was not affixed by the
10 manufacturer.

11 SEC. 2. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.